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APPLICANTS: David DUFFY
SERIAL NO.: 09/928,367
FILED: August 14, 2001
FOR: PATHWAY ARRAYS
GROUP ART UNIT: 1639
EXAMINER: T. Wessendorf

ASSISTANT COMMISSIONER FOR PATENTS
Washington, DC 20231

RESPONSE TO RESTRICTION REQUIREMENT WITH ELECTION OF SPECIES

In response to the Restriction Requirement mailed November 27, 2002, setting a one-month response period, Applicant provisionally elects, with traverse, the invention of Group I, Claims 1-11 and 32, drawn to a method for analyzing biochemical pathways comprising the steps of detecting modification of the immobilized biomolecules.

Applicants traverse this restriction requirement and respectfully request withdrawal thereof at least to the extent that the inventions of Groups I and III be examined in a single application. While Applicants do not concede that Groups I and III represent patentably indistinct subject matter, it is submitted that the inventions of Groups I and III define sufficiently related subject matter so as to justify examination together in a single application.

For Example, independent claim 23 of Group III recites a step of "detecting binding of biomolecules in solution to the immobilized biomolecules" and independent claim 1 of Group I recites a step of "detecting modification of immobilized biomolecules." In accordance with the present invention, one can detect modification of immobilized biomolecules as recited in claim 1, by detecting whether there exists binding of biomolecules in solution to the immobilized biomolecules, as recited in claim 23. Since the subject matter of the Group I claims (1-11 and 32) is related in this manner to the subject matter of the Group III claims (23-31 and 32), Applicants respectfully request that the Examiner withdraw the restriction requirement as between the claims of Groups I and III and examine all of the

claims of each of these Groups in this application.

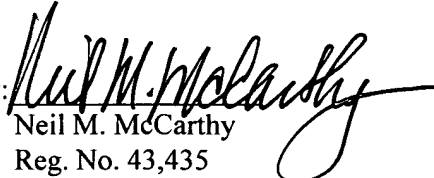
Further, in response to election of species requirement, Applicants hereby elect for examination patentably distinct species 1, identified by the Examiner as "detecting the presence of at least one biomolecule in solution." Currently, claims 1-3, which belong to elected to Group I, are readable on this species. Applicants, however, respectfully traverse the Examiner's election of species requirement. The "additional steps" that the Examiner considers to represent patentably distinct species merely further limit the respective independent claims by reciting an additional process step. It is not believed that such additional process steps are properly characterized as separate species. Nonetheless, in traversing this additional requirement, Applicants do not imply that separate claims reciting one or more of such additional steps are patentably indistinct. Reconsideration of the election of species requirement is, therefore, respectfully requested. Further, should the Examiner withdraw the restriction requirement between Groups I and III, as requested, it is noted that claims 23-25 of Group III are readable on the elected species.

If there are any issues outstanding after consideration of this election, the Examiner is invited to contact the undersigned to expedite prosecution of this case.

The Patent Office is authorized to charge any fees which may be necessary for consideration of this paper to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,

KENYON & KENYON

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